

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jackie Manginelli	Team: Squad #10	CCRB Case #: 202003467	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/28/2019 2:00 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 104	18 Mo. SOL 11/28/2020	EO SOL 7/15/2021	
Date/Time CV Reported Mon, 05/18/2020 1:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/18/2020 1:00 PM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Witness(es)	Home Address				
[REDACTED]	[REDACTED]				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Angelo Reyes	19629	963227	104 PCT		
2. POM Vahan Bayizian	14039	960218	104 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Miguel Melendez	10581	949320	QNS CT		
2. DT3 Michelle Feldman	07133	938231	104 DET		
Officer(s)	Allegation	Investigator Recommendation			
A.POM Angelo Reyes	Abuse: Police Officer Angelo Reyes entered § 87(2)(b) [REDACTED]	[REDACTED]			
B.POM Vahan Bayizian	Abuse: Police Officer Vahan Bayizian entered § 87(2)(b) [REDACTED]	[REDACTED]			

Case Summary

On May 18, 2020, § 87(2)(b) filed this complaint with the CCRB during her phone statement for CCRB Case No. 202003199.

On May 28, 2019, at approximately 2:00 p.m., inside § 87(2)(b), PO Angelo Reyes and PO Vahan Bayizian, both of the 104th Precinct, arrived at § 87(2)(b)'s apartment building on a radio call for a crime in progress. They went upstairs to the second floor and spoke with § 87(2)(b) who said that she made a previous complaint against § 87(2)(b) for threatening her with a knife. PO Bayizian also found an open criminal complaint report that said that § 87(2)(b) menaced § 87(2)(b) with a knife.

The officers then went downstairs and stepped into § 87(2)(b)'s apartment through the open doorway and arrested her (**Allegations A and B: Abuse of Authority: Entry:** § 87(2)(g)).

Body-worn camera footage was obtained for PO Reyes (**Board Review 05 - 07**) and PO Bayizian (**Board Review 08 - 10**). The footage was received in two parts for each officer. § 87(2)(g)

Findings and Recommendations

Allegation A: Abuse of Authority: Police Officer Angelo Reyes entered § 87(2)(b).

Allegation B: Abuse of Authority: Police Officer Vahan Bayizian entered § 87(2)(b).

§ 87(2)(b) was interviewed over the phone on May 18, 2020 (**Board Review 01**). PO Bayizian was interviewed remotely using MS Teams on September 14, 2020 (**Board Review 02**). PO Reyes was interviewed remotely using MS Teams on October 5, 2020 (**Board Review 03**). PO Melendez was interviewed at the CCRB on September 2, 2020 (**Board Review 04**). § 87(2)(b) was unavailable to the investigation.

§ 87(2)(b) stated that, on the day of this incident (which § 87(2)(b) was unsure of), two officers, PO Bayizian and PO Reyes, arrived at her apartment and knocked on the door. The officers told her that they were there to arrest her on a complaint that § 87(2)(b) threatened to stab her upstairs neighbor, § 87(2)(b) with a knife. § 87(2)(b) was upset and began calling her housing group to get help, but the housing group did not answer the phone. PO Bayizian and PO Reyes stepped into her doorframe, handcuffed her, and told her that she had to hang up the phone. She was then brought to the 104th precinct stationhouse.

PO Reyes stated that he and PO Bayizian received a radio call for a crime in progress at § 87(2)(b). The officers did not receive any information about what the crime in progress was when they arrived at the location. PO Reyes and PO Bayizian walked to the second floor to speak with § 87(2)(b) who told the officers about a previous incident where she filed a criminal complaint against § 87(2)(b). PO Bayizian looked up the past complaint on his phone and found an open UF-61 criminal complaint report that said § 87(2)(b) was accused of, "menacing with a knife." PO Reyes did not remember if they looked up whether § 87(2)(b) had an active arrest warrant. The officers went back downstairs and spoke with § 87(2)(b) for a while through her open front door. § 87(2)(b) stood right next to the door to the apartment and was the only person in the apartment. At some point, PO Bayizian told § 87(2)(b) that she was going to be arrested and that she had to go back to the stationhouse with them. The officers first allowed § 87(2)(b) to make multiple phone calls. PO Reyes and PO Bayizian then stepped into § 87(2)(b)'s apartment to

handcuff her. PO Reyes believed that because of the open complaint report, that the officers could enter § 87(2)(b)'s apartment to arrest her. When asked, PO Reyes added that he feared for his and his partner's safety because he did not know whether § 87(2)(b) had any weapons inside her apartment, but PO Reyes did not see any weapons inside her apartment. PO Reyes was also nervous to leave the building because he thought something could have happened between § 87(2)(b) and § 87(2)(b) if they left. Apart from the complaint report, PO Reyes did not have any additional reasons to believe that § 87(2)(b) would have hurt anyone, including § 87(2)(b) that day. He did not know if § 87(2)(b) was exhibiting any other behavior that would lead him to believe that she would hurt anyone.

PO Bayizian's statement was generally consistent with that of PO Reyes, but he added that § 87(2)(b) did not give the officers consent to enter her apartment.

PO Melendez was interviewed because he ran a warrant check on § 87(2)(b) on the date of the incident but had no recollection of doing this and was not otherwise involved.

PO Bayizian's body-worn camera footage captures this incident in its entirety (**Board Review 08 and 09**). In PO Bayizian's first body-worn camera video (**Board Review 08**), at 2:04, PO Bayizian and PO Reyes arrive at the building and first encounter § 87(2)(b) who is on the first floor standing inside of her apartment in front of her open doorway. § 87(2)(b) says she is going to stand there, and the officers go to the second floor. At 02:33, the officers walk upstairs to speak with § 87(2)(b) who is standing inside her open apartment doorway. § 87(2)(b) mentions earlier criminal reports she filed against § 87(2)(b) for threatening her with a knife. She said on this date, § 87(2)(b) said to her, "Do you want to Square up bitch?" At 04:30, PO Bayizian steps away to search something on his phone while PO Reyes continues to speak with § 87(2)(b).

In PO Bayizian's second body-worn camera video (**Board Review 09**). The officers are on the first floor of the building, and at 00:49, approach § 87(2)(b)'s open doorway where she appears to be sitting on her bed in her underwear and speaking with someone on the phone. PO Bayizian asks § 87(2)(b) to wrap up her phone call. PO Bayizian then asks her to put her clothes on because they need to speak to her about something. She says that she does not want to get dressed and be arrested. At 01:20, PO Bayizian tells § 87(2)(b) that they need to go down to the precinct about a previous incident. She says that she does not want to walk out of her door because she is scared. At 02:30, PO Reyes steps into § 87(2)(b)'s bedroom. PO Bayizian stands inside her doorway. At 06:20, § 87(2)(b) asks if she is under arrest and the officers say that she is under arrest. At 07:10, PO Bayizian steps into § 87(2)(b)'s bedroom. The officers handcuff § 87(2)(b) and escort her out of her apartment.

PO Reyes's body-worn camera footage was generally consistent with that of PO Bayizian (**Board Review 05 and 06**).

The investigation obtained criminal complaint report number § 87(2)(b) prepared on May 23, 2019, that was also associated with CCRB Case No. § 87(2)(b) (**Board Review 11**). The charge listed against § 87(2)(b) is a misdemeanor for menacing. The complaint was made by § 87(2)(b) and stated that her and § 87(2)(b) got into a verbal dispute over missing packages in their building. While § 87(2)(b) was waiting at the bus stop across the street from the apartment, she saw § 87(2)(b) screaming out her window and waving a knife at her. § 87(2)(b) said that she felt nervous, alarmed, and feared for her safety. The arrest number is listed on the report as § 87(2)(b).

The investigation obtained arrest report § 87(2)(b) (**Board Review 18**). The arrest report narrative

notes that § 87(2)(b) was arrested for § 87(2)(b), on complaint report number § 87(2)(b).

The investigation obtained a warrant audit in relation to this incident (**Board Review 12**). On May 28, 2020, at approximately 3:15 p.m., it indicates that PO Reyes checked his phone for any warrants related to § 87(2)(b).

The investigation confirmed that there were no active arrest warrants or bench warrants for § 87(2)(b) on the incident date (**Board Review 19**).

It was undisputed that neither PO Reyes nor PO Bayizian obtained an arrest warrant prior to stepping into § 87(2)(b)'s apartment and arresting her. It was also undisputed that § 87(2)(b) did not give consent to the officers to enter her apartment.

People v. McBride, 14 N.Y.3d 440, (2010) found that if there is probable cause, the police may proceed without a warrant to effectuate an arrest within a home if exigent circumstances exist to justify a warrantless entry. The factors for exigency include: 1) the gravity or violent nature of the offense with which the subject is to be charged, 2) whether the subject is reasonably believed to be armed, 3) a clear showing of probable cause to believe the suspect committed the crime, 4) strong reason to believe the suspect is in the premises being entered, 5) a likelihood that the suspect will escape if not swiftly apprehended, and 6) the peaceful circumstances of the entry. The court must determine if there is an urgent need that justifies a warrantless entry (**Board Review 13**).

Payton v. New York, 445 U.S. 573, (1979) found that the police are prohibited from making warrantless and nonconsensual entries into suspects' homes in order to make routine felony arrests (**Board Review 17**).

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two prior CCRB complaints (**Board Review 14**).
 - § 87(2)(b) [REDACTED]
 - [REDACTED]
- PO Reyes has been a member of service for three years and has been a subject in one previous complaint and one previous allegation that was exonerated. § 87(2)(g) [REDACTED]
- PO Bayizian has been a member of service for four years and this is the first complaint for

which he has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- A request for any Notice of Claim regarding this incident has been submitted to the New York City Comptroller's Office and will be added to the case file upon receipt (**Board Review 15**).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

Squad No.: 10

Investigator: Jackie Manginelli Jackie Manginelli 10/15/2020
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 10/16/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date